

TIARA SMART, Administratrix of the
Estate of FRANK SMART, JR.,
Deceased,

2:15cv953
Electronic Filing

V.

ALLEGHENY COUNTY d/b/a
ALLEGHENY COUNTY JAIL; and
ORLANDO HARPER

Defendants.

The present action was initiated in this Court on July 23, 2015. The case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with Magistrate Judges Act, 28 U.S.C. § 636(b)(1) and Local Rules of Court 72.C and 72.D.

On July 21, 2017, Magistrate Judge Eddy issued a Report and Recommendation (“R&R”), [ECF No. 52], recommending that that Defendants’ Motion for Summary Judgment, [ECF No. 47], be denied.

The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72(b)(2), and LCvR 72.D.2, objections to the R&R were due by August 4, 2017. In addition, the parties were warned that failure to file objections within that timeframe will waive the right to appeal. To date, no objections have been filed.

After a *de novo* review of the pleadings and documents in this case, together with the R&R, the Court agrees with the R&R's conclusion that summary judgment is inappropriate because Defendants' "entire motion is premised on genuine disputes of material fact." [R&R at 11-14]. Accordingly, the following Order is entered:

AND NOW, this ⁷9 day of August, 2017, **IT IS HEREBY ORDERED** that Defendants' Motion for Summary Judgment [ECF No. 47] is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation [ECF No. 52] is **ADOPTED** as the Opinion of the District Court.



David Stewart Cercone
United States District Judge

cc: Honorable Cynthia Reed Eddy,
United States Magistrate Judge
George M. Kontos, Esquire
Katie A. Killion, Esquire
Dennis R. Biondo, Jr., Esquire

(Via CM/ECF Electronic Mail)